

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

RODERICK HENRY (D-4),

Defendant.

Case No. 00-CR-80128-DT

HONORABLE DENISE PAGE HOOD

ORDER

This matter is before the Court on Defendant Roderick Henry's Motion to Allow Private Investigator to Interview Individuals at Milan Correction Facility and FCI Terre Haute. On July 21, 2005, a Judgment was entered against Defendant, amended on October 21, 2005, sentencing Defendant to 180 months in prison after a jury verdict finding Defendant guilty of violating 21 U.S.C. §§ 841(a)(1) and 846. Defendant filed a Notice of Appeal from the Judgment on July 26, 2005.

Defendant claims that in order to properly prepare Defendant's brief on appeal, it is necessary for an investigator to interview certain co-defendants currently incarcerated at FCI Milan and USP Terre Haute. Defendant does not cite any authority as to whether this Court has any authority over a post-judgment discovery motion while the matter is currently before the Sixth Circuit Court of Appeals. A proper notice of appeal divests the district court of jurisdiction and transfers jurisdiction to the court of appeals. *Lewis v. Alexander*, 987 F.2d 392, 394 (6th Cir.1993); *United States v. Moss*, 189 F.R.D. 354, 356 (E.D. Mich. 1999); *United States v. Worthy*, 172 F.3d. 51, 1998 WL 898840 (6th Cir. Dec. 17, 1998) (unpublished)(A post-judgment discovery motion was properly denied by the district court as jurisdiction over the case had already been transferred to the

court of appeals). The Court does not have jurisdiction over Defendant's post-judgment motion to allow a private investigator to interview certain individuals located at federal correctional institutions since the case has been transferred to the Sixth Circuit Court of Appeals.

Accordingly,

IT IS ORDERED that Defendant's Ex-Parte Motion to Allow Private Investigator to Interview Individuals at Milan Correctional Facility and FCI Terre Haute (**Docket No. 293, filed September 8, 2006**) is DENIED.

/s/ DENISE PAGE HOOD
DENISE PAGE HOOD
United States District Judge

DATED: September 15, 2006

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 15, 2006, by electronic and/or ordinary mail.

S/William F. Lewis
Case Manager